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## Independent Auditor's Report on Internal Control

### Board Members

National Mediation Board

We audited the accompanying balance sheet of the National Mediation Board (NMB) as of September 30, 2011, and the related statements of net cost, changes in net position, budgetary resources, and financing for the year then ended (the principal financial statements) and issued our report thereon, dated October 24, 2011. We conducted our audit in accordance with *Government Auditing Standards*, auditing standards generally accepted in the United States, and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*.

In planning and performing our audit, we considered NMB's internal control over financial reporting by obtaining an understanding of NMB's internal control, determining whether internal control had been placed in operation, assessing control risk, and performing tests of control to determine auditing procedures for the purpose of expressing our opinion on the principal financial statements. We limited internal control testing to that necessary to achieve the objectives described in OMB Bulletin No. 07-04. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as the internal control relevant to ensuring efficient operations. The objective of our audit was not to provide assurance on internal control. Consequently, we do not express an opinion on internal control.

With respect to internal control related to performance measures reported in NMB management's overview, we obtained an understanding of the design of significant internal control relating to the existence and completeness assertions, as required by OMB Bulletin 07-04. We also assessed control risk relevant to NMB intra-agency transactions and balances. Our procedures were not designed to provide assurance on internal control over reported performance measures, and accordingly, we do not express an opinion on such control.

Our consideration of internal control over financial reporting would not necessarily disclose all matters that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, control deficiencies exist when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency or a combination of control deficiencies, that adversely affects the NMB's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the NMB's financial statements that is more than inconsequential will not be prevented or detected.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected. Because of inherent limitations in internal control, misstatements, losses, or noncompliance may nevertheless occur and not be detected.

In our fiscal year 2011 audit, we noted, one matter described in Exhibit I that we considered to be a material weakness. This control weakness was also considered to be a material in the FY 2010 audit.

We issued a draft of this report to NMB management and requested its comments. Management replied by indicating its general agreement with the audit results. This report is intended solely for the information of NMB management, OMB, and Congress. This report is not intended to be and should not be used by anyone other than these specified parties.

*Allmond & Company LLC*

**ALLMOND & COMPANY, LLC**

October 24, 2011

Landover, Maryland

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## Exhibit 1

### Material Weakness

Improvements Were Needed in Recording Obligations Related to Arbitration Services

During FY 2010, NMB appointed an arbitrator to hear a case or a group of related cases by issuing a Certificate of Appointment. The Certificate of Appointment must be signed by both parties (NMB and arbitrator); it commits NMB to pay the arbitrator once an award is made on a case and requires the arbitrator to hear a case or group of related cases. We noted NMB did not record an obligation in the general ledger once the Certificate of Appointment is signed by both parties.

We recommended NMB develop and implement policies and procedures requiring an obligation to be established in the general ledger once a Certificate of Appointment has been signed by NMB and an arbitrator, and the Office of Administration reconcile obligations established in the general ledger to the amount of open cases heard by an arbitrator per the Case Management System.

As part of NMB's FY 2010 corrective action plan, NMB terminated all Certificates of Appointments effective July 1, 2011 and eligible arbitrators were issued letters indicating that they were available to do work as assigned by NMB during the period of July 1, 2011 through September 30, 2011.

During our FY 2011 audit, we noted NMB management still needs to make improvements in recording obligations related to arbitration services. NMB has not fully implemented policies and procedures to record obligations related to arbitration services in the general ledger when they are incurred (once arbitrator is assigned to a case). Specifically, the following weaknesses were identified (1) a document no longer exists that evidences that an arbitrator has been assigned to hear a case; (2) there is no procedure in place that notifies Office of Administration that an arbitrator has been assigned to hear a case (obligation was incurred); and (3) obligations related to arbitration services were established on a month-to-month basis in the general ledger.

Statements of Federal Financial Accounting Concepts (SFFAC) *5 Elements of Accrual Basis Financial Statements and Basic Recognition Criteria* paragraph 42 states, "As the term is used in this Statement, an obligation is a duty or responsibility to act in a certain way. To have a present obligation means that the obligation arose as a result of a past transaction or other event and has not yet been settled. Thus, a present obligation should be distinguished from a mere expression of future intent, such as the government's announcement that it intends to acquire equipment. A present obligation is incurred when the government takes a specific action or an event occurs that commits or binds the government."

At the end of FY 2011, NMB had assigned approximately 2,182 cases to arbitrators to hear. NMB had not established an estimate of the full obligation in the general ledger for all costs associated (travel, hearing the case, and writing a decision) with obtaining an award on the 2,182 cases in which an arbitrator had been assigned to hear at the time the obligation was incurred. NMB established an obligation in the general ledger in September 2011 for (1) arbitrators to write an award on the 661 cases that were heard as of FY 2011; and (2) arbitrators to hear and write an award on 1,521 cases that had not been heard by the end of FY 2011.

Government Accountability Office (GAO) Standards on Internal Control in the Federal Government states, "Transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from the initiation and authorization through its final classification in summary records. In addition, control activities help to ensure that all transactions are completely and accurately recorded."

It is NMB practice to establish obligations related to arbitration cases in the general ledger on a month to month basis for expenses that the arbitrator will incur while hearing the case, and once the arbitrator makes an award on a case. Also, at the end of the fiscal year they establish an obligation for cases assigned to an

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arbitrator that have not been heard or an award has not been provided as of September 30.

As a result, obligations recorded in the general ledger during the fiscal year related to arbitration were understated by approximately \$600,000 during FY 2011. Also, not recording obligations in the general ledger when incurred may lead to NMB incurring more obligations than funds made available to them by governing bodies.

Since NMB management still is not recording obligations related to arbitration when incurred, we consider the recommendations made in the FY 2010 audit unresolved and open. To close the recommendations, management needs to do the following:

- 1 Develop and implement policies and procedures requiring the estimation of the full obligation required for an arbitrator to write an award on cases that have been assigned to be recorded in the general ledger at the time it is incurred.
- 2 Develop a document that must be used by the Office of Arbitration to assign an arbitrator to hear a case. This document should be approved by the Director of Arbitration before an obligation is established in the general ledger for all cost associated with the arbitrator rendering an award on the assigned case.
- 3 Office of Administration and Arbitration reconcile the status of obligations established in the general ledger to the amount of cases assigned to an arbitrator per the Case Management System.
- 4 Monitor activities performed monthly by Office of Administration and Office of Arbitration over the funds that remain available for obligation related to arbitration services.
- 5 Develop a mechanism to estimate and update obligations related to arbitration as more information about the status of the case becomes available.

## Management Response

NMB Management concurs with the recommendations identified above and has already put those recommendations in place.

Cancelling the Certificates of Appointment and issuing letters to contractors indicating that they were available to do work, as assigned, for the NMB, the agency is fully compliant with the cited language from the SFFAC: the agency has moved from an obligation to a notice of intent.

Establishment of the Arbitrator Workspace puts in place controls on which cases are assigned to an arbitrator, and allows for tracking of all work associated with a case, from assignment to receipt of the arbitrator's determination. This allows a full accounting of the obligation at the point funds are approved. A "report on demand" feature of the Arbitrator Workspace will allow the Offices of Administration and Arbitration to review, at any time, the status of cases, the status of obligations, and the status of funds for Section 3. Actions taken in the Arbitrator Workspace will be instantly recorded in the Arbitration case management data base, and will be evidence of agency actions sufficient to establish an audit trail for all transactions.

The Arbitrator Workspace is being testing during the first quarter of FY 2012 with approximately 20 percent of the active arbitrators involved as the test group. This test period will confirm the efficacy of the system design and will allow for development of adequate communication between the Offices of Administration and Arbitration. The Arbitrator Workspace and all of its audit functions will be fully operational and mandatory for all arbitrators at the beginning of calendar year 2012.